

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

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COMPLAINT INVESTIGATION FORMIf there is an issue with more than one veterinarian please file a separate Complaint Investigation Form for each veterinarian

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLYDate Received: JULY 17, 2020Case Number: 21-04**A. THIS COMPLAINT IS FILED AGAINST THE FOLLOWING:**Name of Veterinarian/CVT: Dr. Bernard CohenPremise Name: Catalina Pet HospitalPremise Address: 3925 E. Ft. Lowell Rd. Unit 107City: Tucson State: Arizona Zip Code: 85712Telephone: 520-795-4612**B. INFORMATION REGARDING THE INDIVIDUAL FILING COMPLAINT*:**Name: Elizabeth SommersAddress: [REDACTED]City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]Home Telephone: - Cell Telephone: [REDACTED]

*STATE LAW REQUIRES WE HAVE TO DISCLOSE YOUR NAME UNLESS WE CAN SHOW THAT DISCLOSURE WILL RESULT IN SUBSTANTIAL HARM TO YOU, SOMEONE ELSE OR THE PUBLIC PER A.R.S. § 41-1010. IF YOU HAVE REASON TO BELIEVE THAT SUBSTANTIAL HARM WILL RESULT IN DISCLOSURE OF YOUR NAME PLEASE PROVIDE COPIES OF RESTRAINING ORDERS OR OTHER DOCUMENTATION.

C. PATIENT INFORMATION (1):

Dog Name: Skeeter
Breed/Species: Shepherd Mix (DNA says $\frac{1}{8}$ German Shepherd,
 $\frac{1}{8}$ Chihuahua, $\frac{1}{8}$ Schipperk
Age: 12 yrs, 11 mo. Sex: Male Color: Schipperk
Brown, Black, Cream 5/8 Mixed Breed,

PATIENT INFORMATION (2):

Name: _____
Breed/Species: _____
Age: _____ Sex: _____ Color: _____

D. VETERINARIANS WHO HAVE PROVIDED CARE TO THIS PET FOR THIS ISSUE:

Please provide the name, address and phone number for each veterinarian.

Dr. Julie Smith - Uptown Vet - 3131 Hennepin Ave. S., Mpls, MN 55408
612-825-6859 - She retired but can still be reached through Uptown Ve or me.
University of Minnesota College of Veterinary Medicine
Dr. Elizabeth LaFond - 1365 Gortner Ave. Unit 225, St. Paul, MN 55108
612-626-8387 - She just retired weeks ago but can possibly still be reached.
Kindest Cut (now Animal Humane Society Veterinary Center).

E. WITNESS INFORMATION: 845 Meadow Lane N. Mpls, MN 55422
vet tech's name unknown: 763-429-7729

Please provide the name, address and phone number of each witness that has direct knowledge regarding this case.

Vet #4. Dr. Sally Rademaker
Sunrise Pet Clinic - 5635 N. Swan
Tucson, AZ 85718
520-299-5044

SEE NEXT PAGE FOR
WITNESSES.]
Vet #5. Dr. Bernard Cohen - Catalina Pet Hospital
3925 E. Ft. Lowell Rd. Unit 107
Tucson, AZ 85712 520-795-4662

Attestation of Person Requesting Investigation

By signing this form, I declare that the information contained herein is true and accurate to the best of my knowledge. Further, I authorize the release of any and all medical records or information necessary to complete the investigation of this case.

Signature: Skeeter

Date: 7/9/20

F. ALLEGATIONS and/or CONCERNS:

- Please see attached pages.

Please provide all information that you feel is relevant to the complaint. This portion must be either typewritten or clearly printed in ink.

E. Witness information:

- Marlene Sommers

[REDACTED]
[REDACTED]
[REDACTED]

- David Sommers

[REDACTED]
[REDACTED]
[REDACTED]

These witnesses were not present at the appointments with Dr. Cohen, but they were involved with Skeeter's care, and well-aware of Skeeter's recurring mast cell tumors.

Skeeter Sommers

I appreciate your time in understanding my dog Skeeter's history, which is relevant to this complaint. He suffered profoundly from abuse and a rare cancer many years ago, and had 12 surgeries during his nearly 13 years of life. Skeeter was a stray in Yucatan, Mexico. I found him on New Year's Eve 2007 after someone threw acid on his face. It burned him down to the muscle, but miraculously he recovered. Four years later when he was living with friends in Mexico, he was diagnosed with TVT - transmissible venereal tumor - a sexually transmitted cancer. A baseball-sized tumor between his eyes broke his skull and pushed a tooth out. Three vets in Mexico had never seen anything like it, and said he was unlikely to survive. My friends then gifted him to me (best gift ever!) and seven chemotherapy treatments cured his cancer. Another miracle!

I was teaching kids in schools about safety and responsibility with dogs, and Skeeter accompanied me as my helper. He loved everyone and was the perfect teacher to help kids overcome their fear of dogs. In later years as he went through many surgeries to have mast cell tumors removed, he would visit assisted living facilities with me, bring a smile to residents' faces, and comfort others who were also cancer survivors.

Skeeter had three recurring problems - reactions to anesthesia, mast cell tumors, and tiny coarse hairs stuck in his ears that made him itch. (See evidence) In 2013 in Mexico Skeeter had bad reactions to anesthesia three times and took several days to recover. I thought he would not survive. Later In 2013 I moved back to the U.S. with Skeeter and began finding mast cell tumors on him. Between 2013-2017 Skeeter had eight surgeries to remove thirteen mast cell tumors. It was frustrating and discouraging, but our vet Dr. Julie Smith at Uptown Vet in Minneapolis excised them all completely with good margins.

Dr. Smith found tiny, coarse hairs deep inside Skeeter's ears during most of the seven surgeries she performed (and two dental cleanings) that were the source of irritation. She could usually remove the hairs, and afterwards Skeeter no longer scratched his ears incessantly...for a while. I also removed tiny hairs on several occasions, and afterwards Skeeter was immediately relieved. He had survived acid on his face, a large tumor in his head, a broken skull and a pushed out tooth, but those tiny hairs really bothered him!

On May 16, 2017 I brought Skeeter to the University of Minnesota College of Veterinary Medicine. Dr. Elizabeth LaFond discussed the options for treating Skeeter's frequently recurring mast cell tumors, including chemo, surgeries, and Prednisone therapy. I had already seen Skeeter go through chemotherapy for TVT, and did not want to put him through chemo again, radiation, or even Prednisone. His quality of life and happiness were always my number one priority. He had always done well with surgeries at Uptown Vet, and so I opted to have any further mast cell tumors surgically removed. I

also discussed it at length with our regular vet, Dr. Julie Smith. She agreed that surgery had worked well for removing his tumors. Both vets supported this decision.

In 2017 my dogs and I moved to Arizona, and on December 7, 2017 Skeeter had his eighth surgery for three mast cell tumors to be removed at Sunrise Pet Clinic in Tucson. There were two problems:

1. Skeeter had a bad reaction to the anesthesia. The day after surgery, he was still very lethargic, could hardly stand, and refused water. I brought him back to Sunrise and they put him on IV fluids. His pulse was 30 bpm. It was extremely distressing, and I thought he wouldn't survive.
2. Biopsy results showed that a tumor removed from his foot was high grade III (Patnaik system) and Dr. Rademaker had not gotten good margins. She and I discussed the options numerous times. She also spoke with Tucson oncologist Dr. Klein (see records) who said if Skeeter had both chemo and radiation, he might have one year to live at most. If we did nothing, he might have four months. Amputation of his leg was also suggested.

I spoke with Dr. Julie Smith (our Minneapolis vet) about it, and then drove Skeeter 1,300 miles back to Minneapolis to meet with her about possible amputation, and also meet with an oncologist at the University of Minnesota College of Veterinary Medicine. Skeeter was 11 years old. After numerous lengthy discussions with Dr. Smith and Dr. LaFond (Evidence pp 33-38), and careful consideration, I cancelled our oncology appointment and decided against amputation and Prednisone therapy. On the advice of Dr. Smith, I decided I would not put Skeeter through chemo or radiation, nor would I ever put him through more surgeries or anesthesia unless it was an emergency. I did not want him to be anesthetized again at his age, given his four previous bad reactions. Chemo and radiation would diminish his quality of life. He had already survived against all odds with acid thrown in his face, a broken skull, chemotherapy for TVT, cancers, bad reactions to anesthesia, and had already suffered through 12 surgeries. I sadly accepted that mast cell cancer was likely to eventually take his life. He was a happy dog and I didn't want to put him through any more pain or drugs. I wanted to make the best of what time Skeeter and I had left together.

I am filing this complaint against Dr. Bernard Cohen at Catalina Pet Hospital in Tucson, Arizona. I brought Skeeter to Dr. Cohen on three occasions: May 24, 2019, October 22, 2019, and December 2, 2019. I chose this clinic upon recommendation of an acquaintance.

Appointment #1 May 24, 2019: Reason For Visit: Bowel Issues

Before the appointment, I gave all of Skeeter's vet records to the receptionist, including Uptown Vet, University of Minnesota, Kindest Cut, and Sunrise Pet Clinic. I expected to be listened to and that Skeeter's history be taken seriously. During the appointment I talked to Dr. Cohen about Skeeter's history, including his mast cell tumors and bad reaction to the anesthesia Butorphanol at Sunrise. After I verified that Dr. Cohen did in fact have the anesthesia Ketamine/Midazolam, I wanted it written in Skeeter's chart that he could not tolerate Butorphanol, and to use Ketamine/Midazolam instead, in case of emergency surgery. At Uptown Vet he had tolerated it well during the nine times he was anesthetized there.

There were four conflicts with Dr. Cohen during that appointment:

1. He dismissed my concern for Skeeter's reaction to anesthesia. I told him Skeeter had a bad reaction four times to Butorphanol in both Mexico and the U.S. and I'd thought he would die. Dr. Cohen shrugged and said, "There's nothing wrong with that anesthesia. I use it all the time". I reiterated that Skeeter had a problem with it. He shrugged again, disregarding my concern. I reiterated again Skeeter's experience - told him that Skeeter's heart rate had dropped to 30 bpm the day after his last surgery, and he had to return to the clinic to be put on IV fluids. I told him Skeeter also had bad reactions to anesthesia in Mexico, and if Skeeter ever needs emergency surgery, could Dr. Cohen please use Ketamine/Midazolam? He's had it nine times before and it always worked well with his system. Dr. Cohen argued, said it was a very old anesthesia that he never uses, but he had it and could use it. I said it didn't matter to me if it was old, the important thing is that it works for Skeeter. He shrugged it off again and laughed sarcastically, saying there is nothing wrong with Butorphanol. I said there's nothing wrong with it unless you have a bad reaction to it like Skeeter did. He got angry. He demanded, "Butorphanol works fine", seeming to disregard Skeeter's experience. I didn't understand why it was becoming such an argument. Why did he dismiss my concerns? How could he refuse to consider Skeeter's medical history? Skeeter's bad reaction was well-documented in his records. (Evidence pp 1, 25-27) Why was Dr. Cohen so argumentative about it if he had it and said he was willing to use it?
2. Although I'd brought Skeeter in for bowel issues, Dr. Cohen kept changing the conversation back to Skeeter's mast cell tumors. He asked where they were, and felt one, squeezing it hard. I asked him to please not squeeze it - I didn't want histamines released - yet he ignored my request and he continued. "Oh, that's nothing," he said, adding that he's seen huge mast cell tumors. I said Skeeter's

mast cell tumors hadn't been "nothing" - they had mostly been low grade II on the two tier grading system, and the last one was grade III on the Patnaik system. Dr. Cohen shook his head and laughed, repeating that Skeeter's tumors were nothing. How could Dr. Cohen dismiss Skeeter's 13 previous mast cell tumors as nothing?

3. Dr. Cohen repeatedly told me I had to give Skeeter Prednisone or Benadryl for the tumors. I stated that I had already decided not to use Prednisone or Benadryl, as Skeeter already had eight surgeries to remove tumors, bad reactions to anesthesia, acid thrown in his face, a large TVT tumor in his head, a broken skull and tooth, chemotherapy, and that I would also never put him through chemo again. And I didn't want him drugged for the rest of his life. He ignored and disregarded my comments when he was not interrupting me, and he continued pushing Prednisone and Benadryl. Why did he ignore my decision not to treat Skeeter's tumors?
4. Dr. Cohen laughed at Skeeter's bowel problem (he had had diarrhea for a few days and then became constipated), and said there was nothing wrong with him. He waved us out of the appointment as if we were a nuisance.

Appointment #2 October 22, 2019: Reason For Visit: Recurring Itchy Ears Caused By Tiny Loose Hairs

I thought maybe Dr. Cohen had been having an off-day at our first appointment, so we returned to him for what I thought would be a simple visit. Skeeter had itchy ears - a recurring problem for him - caused by tiny, coarse hairs stuck in his ears. It was well-documented in 12 previous vet records that tiny hairs were found deep in his ears while under anesthesia. (Evidence pp 1, 4, 5, 8, 11, 14-16, 19-20) I asked Dr. Cohen if he had any suggestions on how to get the tiny hairs out. Dr. Cohen laughed and dismissed the problem Skeeter was having and said it wasn't true - that Skeeter's experience wasn't happening. He didn't believe me, and he made that clear. I told him that our vet in Minneapolis would find tiny hairs stuck deep in Skeeter's ears during nearly every surgery, remove the hairs, and it would resolve Skeeter's itchy ears. I asked Dr. Cohen if there was a solution besides EpiOtic or Gentamicin that he could suggest to help remove the uncomfortable hairs. Dr. Cohen said Skeeter had allergies. He looked in Skeeter's ears and said there were little hairs in there, but laughed and said, "That's no big deal". I said it was a big deal for Skeeter because they bothered him and he scratched incessantly until they're removed.

"No they don't," he responded, laughing.

Then, "If you think any vet is going to put a dog under anesthesia just to clean its ears you're crazy". I told him I never asked that, and that Skeeter would never again be put

under anesthesia except for an emergency. I again asked him for suggestions. He said there was NO way that hairs in his ears could bother Skeeter. NO way, and he reiterated that I was crazy to think I was going to find a vet to put Skeeter under anesthesia just to get hairs out of his ears. I reiterated that was not what I had asked.

"Hairs don't do that," he said emphatically, shaking his head and smirking sarcastically. Skeeter and I walked out as Dr. Cohen grumbled and shook his head, laughing at the stupidity of my concern. He absolutely dismissed Skeeter's problem, Skeeter's medical history, and my concern once again. I found it incredibly unprofessional and unethical.

I realized Dr. Cohen was not a vet I could count on to care about my dog. He had shown a very low standard of care - disrespectful, dismissive, argumentative, and uncaring to the point of being cruel. I didn't understand why he wouldn't take Skeeter's problems seriously - the anesthesia reaction, the tumors, the hairs - and even joke sarcastically about them. I was actually baffled by his rudeness. He had Skeeter's previous vet records and the issue with the hairs was well-documented. In retrospect I realize that I should have walked out immediately, as Dr. Cohen had been blatantly disrespectful during our previous appointment as well.

As I paid the \$63, I asked a receptionist if she could recommend a different vet in the clinic. I was so disappointed by his rudeness and lack of professionalism, and mentioned my concern to a receptionist. She said, "Dr. Cohen can be pretty abrasive," and suggested we see a different vet next time. She wanted to note it in Skeeter's chart that we were switching vets, but I asked her not to, as I didn't want to create any more tension with Dr. Cohen.

During the two appointments, Dr. Cohen also looked at my body a little too suggestively, a little too often. It made me uncomfortable, but I tried to ignore it.

Appointment #3 December 2, 2019: Reason For Visit: Right Rear Leg Problem, Diarrhea, High Heart Rate, Labored Breathing, Vomiting

Unfortunately, on December 2, 2019 Skeeter needed to see a vet urgently. I wanted a vet who was already familiar with Skeeter's health issues, as I didn't want to waste valuable time explaining his complicated history. Skeeter's basic functions were failing. He was unable to stand on his right rear leg, barely able to walk, had 15 spells of diarrhea overnight and 15 earlier the previous evening, his heart rate was 200 bpm twice when I checked it, his breathing was labored, and he projectile vomited as I made the appointment to see Dr. Cohen, who fit us in for an urgent, same day appointment.

Dr. Cohen gave Skeeter three injections without my approval when Skeeter was getting an X-ray - two with medications, one for an aspirate. He did not consult with me about those injections. He did not provide me with an estimate. He did not warn me about reactions from the injections. He never showed me the X-ray.

At the start of the appointment, the vet tech took Skeeter back for an X-ray of his leg. I told her I wanted to accompany him if possible. She said I could not, but they would be "back in a minute". Dr. Cohen then came in and said they would do "one quick X-ray. He'll be back in a minute". After waiting nervously for over 20 minutes, worrying that Skeeter was not ok, Dr. Cohen returned with Skeeter. Dr. Cohen had injected Skeeter with three needles without my approval - twice with drugs (anti-nausea and anti-biotic), and once for an aspirate cytology of his thigh. He never showed me the X-ray. He never warned me that injecting a needle into a mast cell tumor would cause severe swelling, as he admitted the next day when Skeeter's leg swelled up like a football.

Dr. Cohen said he found mast cells in Skeeter's thigh, and a colleague also identified them. He thought the tumor had grown into the muscle. He said he would send the aspirate sample in for biopsy. He didn't ask me. He told me. I was hesitant. I did not understand why he thought I should get a biopsy when two people had already identified mast cells, and the results would not cause me to change the course of treatment anyhow. When I asked him why, he said, "I would want to know". He said he had only seen one other dog in his career with a mast cell tumor that had grown into the muscle, and he wanted to know if this would be the second one. The next day by phone I told him to cancel the biopsy, because the results would not change my decision of treatment anyhow. Dr. Cohen seemed shocked and angry, and repeated that he wanted to know if they were mast cells. Again, he was ignoring my wishes and wanting me to pay \$200 for him to get information that interested him. Whose interest was Dr. Cohen looking out for - Skeeter's, or his own? Why did he think he had the right to make all the decisions about my dog's care, while I paid? It seemed like Skeeter was part of a research project for him. Is that acceptable practice for a vet to expect a client to pay for unnecessary service in order to enhance the vet's experience and satisfy his curiosity?

Dr. Cohen said I needed to see an oncologist, even though I told him I had already explored that option at length years ago. (Evidence pp 17-18, 22, 24, 28-38) He pushed it repeatedly, ignoring me. I had already discussed treatment options of chemo and Prednisone therapy with Dr. LaFond at the University of Minnesota in May 2017, with Dr. Julie Smith at Uptown Vet on numerous occasions, and Dr. Rademaker at Sunrise Pet Clinic (who spoke with oncologist Dr. Klein and one other oncologist in December

2017). Based on the four months Dr. Rademaker said Skeeter had left to live, Skeeter was now living one year and seven months into bonus time. I had also driven 1,300 miles to consult with Dr. Smith about leg amputation in January 2018. Dr. Cohen had all of those vet records, yet continued to push me to do what he wanted. He did not allow any opinion other than his own. He didn't listen. He didn't respect my wishes. He said an oncologist could do radiation on that leg. I said that wouldn't even resolve the cancer since Skeeter likely had mast cell tumors all over his body. It was not an option for me. Skeeter was almost 13.

Dr. Cohen then insisted I put Skeeter on Prednisone, and ignored me when I told him I had already decided against that 2 1/2 years earlier. He then refused to prescribe Rimadyl, because it cannot be taken with Prednisone. Again, he disregarded what I had just told him. He prescribed Gabapentin instead of Rimadyl for pain. I repeatedly asked him for Rimadyl instead, because Skeeter had always tolerated it well, yet Dr. Cohen refused. I did not want to give Skeeter a potent drug he had never taken at that point, as I did not want to introduce any confounding factors - Skeeter was very sick. Dr. Cohen refused to consider Skeeter's history and my wishes. He said, "This is serious," as if I weren't taking it so. If Dr. Cohen knew it was serious, then why wouldn't he prescribe Rimadyl to help relieve poor Skeeter's pain? And why didn't he warn me about likely side effects of both Gabapentin and inserting a needle into a mast cell tumor? He certainly didn't seem to be looking out for Skeeter's best interest.

He never warned me of Gabapentin's potential side effects. Against my better judgment, that night (December 2) I gave Skeeter Gabapentin, and he was up all night, trembling severely, whining, restless, in and out of coherence, unable to stand or walk, unable to drink water, and in serious decline. The next morning when I called Dr. Cohen, panicked and distraught, he said, "Of course. Gabapentin will do that." Then why hadn't he warned me? This was exactly the sort of thing I was trying to avoid, and why I had wanted Rimadyl instead of Gabapentin. I had spent the entire night up with Skeeter, wondering if Skeeter was dying, or if it was a reaction to the injections I never approved of, or a reaction to the Gabapentin. I pleaded with him on the phone to please prescribe Rimadyl, yet he continued to push Prednisone and did not want Skeeter on Rimadyl. I told him Skeeter couldn't even drink, he was trembling so much, yet he still didn't want to give Rimadyl, and pushed Prednisone. Why did he not hear me? Finally he did comply with my request and prescribed five Rimadyl. My hope was that Rimadyl might alleviate Skeeter's pain for a day or two while I made a mindful decision on when to end Skeeter's quickly worsening pain, and say farewell to him. I could not understand how Dr. Cohen could justify refusing Rimadyl after I had made it clear that I would not put Skeeter on Prednisone, so there would be no drug conflict.

He just refused to take my opinion into account. He refused to collaborate. He refused to care for Skeeter. He refused to respect my wishes.

At the appointment on Dec. 2, Dr. Cohen dismissed my concern over Skeeter's high heart rate. I told him Skeeter's heart rate had been 200 bpm twice when I checked it, and he said, "It's 170. 200 is not a big deal. It's stressful here.". I said 200 seemed quite high, and he reiterated that it was 170, not 200, and 170 was nothing. Dr. Cohen just didn't listen to anything I said. And he clearly didn't care about Skeeter.

At the appointment when I asked about the cost of Gabapentin and Prednisone, Dr. Cohen sarcastically said, "I'm not the marketing guy. How would I know the prices?", and laughed. Doesn't a client have the right to ask questions without being berated and laughed at? It seemed that everything I said provoked Dr. Cohen to give an angry, sarcastic, disrespectful response. I felt that he just wanted to fight with me, and he made me uncomfortable by looking at my body too much.

At the appointment, Dr. Cohen went and stood by the door as we talked, as if he was about to walk out. I was crying over Skeeter's rapid decline and probable impending death, and Dr. Cohen's pushiness and refusal to listen to me. I said, "I feel like I'm being rushed and you're heading out the door.", and he said, "I am. I have a whole waiting room full of people waiting to see me". When I left, there were two women together in the waiting room.

Dr. Cohen never showed me the X-ray. When I asked about it the next day when I returned there for the Rimadyl, a tech showed me an X-ray. I question whether that was actually Skeeter's X-ray.

Dr. Cohen's injection into Skeeter's mast cell tumor caused it to swell up like a football, caused Skeeter even more pain, and Dr. Cohen never warned me about it. On Tues. afternoon Dec. 3, Skeeter's right thigh began to swell rapidly, he couldn't stand up at all, he began whining, his heart rate increased, his breathing quickened, and he went in and out of consciousness. When I called Dr. Cohen to ask him about it, he said, "Injections into mast cell tumors **WILL** cause swelling". Why hadn't he warned me about that? My problem then went from how to make the wisest decisions using sound judgment for Skeeter at this critical final stage of Skeeter's life, to wondering why Dr. Cohen consistently refuses to consider my concerns about Skeeter, and then agonizing over how to manage the problems that Dr. Cohen caused - injecting his leg and causing it to balloon up like a football without asking my permission, and without warning me of this effect, and prescribing Gabapentin without warning me of strong potential side effects. He had taken away my right to make my own decisions about

the life and care of my best friend and dog Skeeter. He created a problem, then turned his back on us, and in the end, his office refused to even help end Skeeter's suffering. Skeeter did not deserve to be treated like this.

When I was paying Sara at the front desk for the appointment on Monday Dec. 2, I asked her how quickly they can usually get someone in for euthanasia. She said they can always fit someone in for euthanasia. That turned out not to be true. They refused to euthanize Skeeter the following day. As Skeeter's leg was swelling up and he began declining severely, I called Catalina Pet Hospital around 4 pm on Tuesday, Dec. 3 to have Skeeter euthanized by a different vet as soon as possible, and was told no. I asked about the next day. She checked with someone and said no. I asked about the rest of the week. She said no. I said that Sara had told me yesterday they can always fit a client in for euthanasia. She said no. So I spent the next hour on the phone, desperately searching for a vet who could euthanize Skeeter that day, and waiting for calls back, while trying to comfort Skeeter, who was declining rapidly in front of me, going in and out of consciousness, and his entire leg was continuing to swell. I wondered if it was still a reaction to the Gabapentin. Or if one of the other drugs Dr. Cohen gave Skeeter without my approval could be causing this, and he just never warned me. I called eight vet clinics about euthanasia, and most of them said that our regular vet should be able to fit us in. Not one of them could fit us in. We ended up going to an emergency clinic and Skeeter was euthanized.

I went to Catalina on Tues. Dec. 3 before Skeeter's final decline to pick up the Rimadyl. I asked for a copy of Skeeter's records. The woman I asked (clinic manager?) seemed defensive and wanted to know why. Don't I have the right to get a copy of my dog's records? I wondered. She made me copies that did not have the clinic's name on them. When I asked her to please write the clinic's name on them she got defensive again and was reluctant. She did provide the copies.

On Dec. 20 I called Catalina and asked Nicole for the name of the vet tech who saw us during that final appointment on Dec. 3. She said the tech's name wasn't written on the chart, and she didn't know who it was. She said she would find out and call me back. She never called.

In summary, there were several conflicts over the final appointment:

1. Dr. Cohen injected Skeeter with two drugs without my approval. He injected him a third time for an aspirate cytology without my approval.
2. He never provided an estimate.
3. He never showed me the X-ray.

4. He repeatedly pushed for me to see an oncologist though I had already decided against it years ago. He ignored the fact that I had already seen a vet at the U of M to discuss options for Skeeter's cancer treatment two years earlier.
5. He wanted me to pay for a biopsy which he admitted was for his own self-interest, and which was unnecessary.
6. He insisted on prescribing Gabapentin instead of Rimadyl, because he wanted Skeeter on Prednisone, even though I said no numerous times.
7. He did not warn me that sticking a needle into a mast cell tumor would cause extreme swelling.
8. He did not warn me of the side effects of Gabapentin, which caused a bad reaction in Skeeter.
9. His office refused to euthanize Skeeter.
10. He was unprofessional, repeatedly dismissed my concerns and wishes, and ignored Skeeter's medical history.

I had to try to repair the mistakes that Dr. Cohen had made with his selfish decisions, watch Skeeter suffer because of those decisions, and then try to quickly figure out where to have Skeeter euthanized after Dr. Cohen's office refused to.

The week after Skeeter was euthanized I called Dr. Cohen to request a refund for the two drug injections that I had never approved of, and he continued to argue with me even after Skeeter's death, and he questioned my decisions. I calmly told him that I never authorized anything besides an X-ray, and that he had never communicated anything to me about what he was doing during the "quick X-ray", nor was I given an estimate of anything, yet I was charged nearly \$200 for injections, and I would appreciate if he would credit those charges.

He said, "Well I guess I apologize. We could never communicate on anything anyhow". He seemed to be blaming me for his actions.

I said, "You could have asked me before you gave Skeeter any injections. You said you would take a quick X-ray, that's all," and before I could finish my sentence he interrupted me, in typical fashion, and said, "So you wouldn't have even wanted any of those injections?"

I said, "I knew two years ago that Skeeter's life would probably be taken by this cancer eventually. He had nearly two bonus years".

Dr. Cohen said, "But did you know that was a huge mast cell tumor in his leg?"

I said, "I knew he was filled with mast cell tumors".

He continued to argue, "So you wouldn't have even wanted any of those injections?".

I said, "I was not asked about anything by you. I did not approve of anything to be done to Skeeter besides an X-ray. Nor was I given an estimate. Yet I was charged for all of it".

He continued arguing with me sarcastically, "Ok, even though he was vomiting and had diarrhea....ok!...You didn't want anything done?! Ok!"

It was painful enough to lose my best friend without being berated afterwards about decisions I had made 2 1/2 years earlier. Why couldn't Dr. Cohen just leave me in peace to mourn? Just stop.

I didn't respond. He had the office manager Alicia call me on Dec. 23 about the credit. Alicia said he would never have gone ahead with injections if we hadn't discussed it. And that he would have reviewed the X-ray with me. She seemed to not believe me. Wouldn't a release form have been required for me to sign, allowing them to inject him? How could there be no proof that I had never approved the injections? Isn't an estimate required? She did credit the two drug charges, but refused to credit the aspirate, because mast cells were found. She said if no mast cells had been found, she would credit it. I found that strange, but I accepted it. I wish that someone else had been present during those three appointments to witness his unprofessional, belittling behavior.

Dr. Cohen's comment that, "We could never communicate anyhow," perplexed me. I wondered what he meant. He had argued with every opinion I had, belittled my concerns, dismissed Skeeter's medical history and experiences, and blatantly disregarded my wishes. He prevented me from participating in making decisions about Skeeter's care at the end of his life, and he took the authority to make decisions without my consent that were precisely against what I wanted, and caused Skeeter's rapid decline.

I feel awful that I was not able to protect Skeeter. To this day, I cannot understand why a vet would refuse to give a very sick dog a medication to help relieve its pain, but instead take numerous actions to exacerbate the dog's pain, hasten the dog's decline, dismiss the owner's wishes, and then leave the owner to clean up the mess the vet had made, and even refuse to euthanize the dog. I find it deeply troubling, unethical, and cruel. I hope that in filing this report, someone can help me understand this. At the end

of Skeeter's life when I most needed a vet who would communicate and collaborate with me, and put Skeeter's best interest first, I instead was offered no options, treated rudely when questioning anything, and criticized for not doing what he insisted I do. Skeeter was my dog, not his.

He laughed sarcastically at the pain Skeeter had been through. He laughed at my concern for Skeeter's reaction to anesthesia (well-documented in his records). He laughed at Skeeter being irritated by tiny coarse hairs stuck in his ears (well-documented 12 times in his records). Then he accused me of wanting to have Skeeter anesthetized so they could be cleaned, and he called me crazy. How can it possibly be ok for a vet to treat a client this way?

Skeeter was an absolute sweetheart and loved everybody. His tail rarely stopped wagging until his final day. He spent his life helping people - teaching thousands of kids in schools, comforting people in assisted living and memory care, giving love to fellow cancer survivors, even comforting crying children in stores, or children in the vet's office who just had their pet euthanized. He was an unusually compassionate dog, and those who had the joy of knowing him noticed it. It is heartbreaking that he was treated so badly by Dr. Cohen at the end of his life - with absolute carelessness. He was poked with needles behind my back and laughed at - he was not treated with even a tiny fraction of the care, love, and dignity he so deserved. And I feel guilty for having put him through that. I never should have returned to Dr. Cohen's office after that first appointment. And Skeeter paid the price.

I thank you very much for your time in reviewing my complaint and considering my frustration.

Sincerely,



Elizabeth Sommers

ENCLOSED EVIDENCE: Skeeter's vet records relevant to this complaint, and 16 relevant photos. Vet records show the following: 8 mast cell tumor surgeries, 12 times that hairs were found in ears, 5 histology reports, several references to anesthesia reactions, and cancer treatment appointment and discussions of treatment options. Dr. Cohen had all of these records at our first appointment. I have highlighted all relevant information and tried to make it as clear and simple as possible for you.



RECEIVED

AUG 10 2020

BY:

21-04

3925 E Fort Lowell Rd Ste 107
Tucson, Az 85712
P:520-795-4612 F:520-323-6240

August 4, 2020

Arizona State Veterinary Medical Examining Board
1740 W Adams St. Ste 4600
Phoenix, Arizona 85007

Dear Arizona State Veterinary Medical Examining Board,

Our first appointment was on May 24, 2019 at Catalina Pet Hospital. Ms. Sommers brought Skeeter in for diarrhea. Ms. Sommers was somewhat demanding in her effort to explain Skeeters history. She completely dominated the conversation and she explained that she did not want to pursue any therapy for the systemic mast cell disease. She was not interested in hearing my opinion or advice. She only wanted to tell me what I could or could not do. Concerning the discussion of anesthetic protocol, I did state we had any or all protocols available, including Ketamine-Midazolam. Any reaction during this appointment I may have exhibited was due to total frustration from being told what I could or could not do. This became an adversarial relationship where she knew all the answers and my advice was always contradictory to hers.

Prednisone therapy with or without antihistamines is what is indicated for systemic mast cell disease. Her refusing to provide that therapy contributed to our disagreeing to what was best for Skeeter.

Our second appointment was on October 22, 2019. Ms. Sommers brought Skeeter in for itchy ears. The otoscopic exam showed some tiny hairs deep in the horizontal canal. No wax, no exudate of any kind was there. She was adamant that these hairs were the sole cause of the itchy ears. I could not believe that those tiny hairs could contribute to the discomfort of Skeeter so I recommended topical therapy for allergic otitis. To anesthetize and try to remove these fine hairs from the ear canal would probably worsen the inflammation. Again, our difference of opinion exacerbated our already adversarial relationship.

Our last appointment was on December 2, 2019. Skeeter was brought into the clinic on an emergency basis with significant discomfort and gastrointestinal issues. His right caudal thigh was very swollen and painful and I x-rayed his thigh to make sure there was no bony involvement. All the swelling was soft tissue only and I performed a needle aspirate to confirm that this was a Mast cell tumor. To remedy the nausea and diarrhea I gave 3mls of Cerenia intravenously and 6mls of Unasyn intravenously. I offered to submit the aspirate slides to the pathologist to confirm the probable Mast cell tumor. I also consulted with my associate Dr. Anneliese Michl who agreed that they were Mast cells. Ms. Sommers declined submitting to a pathologist since Dr. Michl and myself diagnosed them as Mast cells. Since Ms. Sommer questioned all of my decisions thus far, the pathologist confirmation would prove the result. I provided appropriate therapy to try and help Skeeter during this emergency. Although Ms. Sommers disagreed with the recommended course of treatment thereafter, she did not disapprove of the services rendered during the appointment.

Ms. Sommers then called to requested a refund for the Cerenia injection, Unasyn injection as well as the aspirate cytology. She received a full refund for those services on 12/23/19. We also provided Ms. Sommers a copy of her records as requested.

Respectfully,

A handwritten signature in black ink that reads "Bernard Cohen DVM".

Dr. Bernard Cohen

DOUGLAS A. DUCEY
- GOVERNOR -



VICTORIA WHITMORE
- EXECUTIVE DIRECTOR -

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

1740 W. ADAMS STREET, STE. 4600, PHOENIX, ARIZONA 85007

PHONE (602) 364-1-PET (1738) • FAX (602) 364-1039

VETBOARD.AZ.GOV

INVESTIGATIVE COMMITTEE REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: AM Investigative Committee: Robert Kritsberg, DVM - Chair
Christina Tran, DVM - **Absent**
Carolyn Ratajack
Jarrod Butler, DVM
Steven Seiler

STAFF PRESENT: Tracy A. Riendeau, CVT – Investigations
Marc Harris – Assistant Attorney General

RE: Case: 21-04

Complainant(s): Elizabeth Sommers

Respondent(s): Bernard Cohen, D.V.M. (License: 1985)

SUMMARY:

Complaint Received at Board Office: 7/17/20

Committee Discussion: 12/1/20

Board IIR: 1/20/21

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018

(Lime Green); Rules as Revised September 2013 (Yellow).

On December 2, 2019, "Skeeter," a 12+-year-old male Shepherd mix was presented to Respondent for limping, vomiting and having diarrhea. Complainant also reported the dog had an elevated heart rate and labored breathing. The dog had a history of mast cell tumors. Respondent performed radiographs of the dog's right hind limb; he performed an aspirate of a mass on the dog's leg to confirm a mast cell tumor. Additionally, Respondent administered the dog cerenia and unasyn. Complainant declined sending the aspirate to an outside lab for evaluation.

Complainant expressed concern that Respondent aspirated a mass on the dog's limb and administered medications to the dog without her approval.

Complainant was noticed and appeared telephonically.

Respondent was noticed and appeared telephonically. Attorney David Stoll appeared.

The Committee reviewed medical records, testimony, and other documentation as described below:

- Complainant(s) narrative: *Elizabeth Sommers*
- Respondent(s) narrative/medical record: *Bernard Cohen, DVM*

PROPOSED 'FINDINGS OF FACT':

1. Complainant provided Respondent an extensive history of the dog's history including medical records from previous veterinarians when she lived Minnesota. The dog had multiple surgeries related to removing mast cell tumors and other issues throughout the years. Complainant advised Respondent that she no longer wanted to pursue treatment of mast cell tumors due to the dog's age and quality of life issues.
2. On May 24, 2019, the dog was presented to Respondent due to having diarrhea. This was the dog's first appointment with Respondent, therefore Complainant provided Respondent with a copy of the dog's previous medical records and discussed the dog's history. Complainant stated that Respondent was dismissive of her concerns for the dog's conditions and reactions to medications. According to Respondent, Complainant was not interested in pursuing any therapy for the systemic mast cell disease and not interested in hearing his opinion or advice. Respondent explained that any reaction he had during this appointment was due to total frustration from being told what he could or could not do. Prednisone therapy with or without histamines is indicated for systemic mast cell disease. Complainant's refusing to provide that therapy contributed to Respondent's and Complainant's disagreeing to what was best for the dog.
3. On this day, Complainant reported that she switched the dog's food a week and a half ago. The dog had diarrhea therefore Complainant stopped the new food and started ground beef, bland diet. Complainant was concerned the dog now could be constipated – the previous day the dog passed firm stool then was loose. The dog was eating and drinking normal. Upon exam, the dog had a weight = 58.8 pounds, a temperature = 101.3 degrees, a heart rate = 100bpm, and a respiration rate = 40rpm. Respondent noted the dog's abdomen palpated ok and rectal exam revealed normal stool. He further noted multiple small mast cell tumors on the dog's foreleg and trunk; the dog was not on an antihistamine or prednisone.
4. No treatment was provided. No recommendations were noted in the medical record.
5. On October 22, 2019, the dog was presented to Respondent due to have his ears evaluated. Complainant reported that the dog's ears get itchy due to tiny, coarse hairs in the dog's ear canal. This was a recurring problem that was alleviated by having them removed whenever the dog was under anesthesia in the past. According to Complainant, Respondent laughed and dismissed her reasoning at why the dog was scratching his ears and suggested the dog had allergies. Respondent further stated that Complainant was crazy if she thinks a veterinarian would anesthetize a dog just to clean its ears.
6. Upon exam, the dog had a weight = 59 pounds, a temperature = 102 degrees, a heart rate = 108bpm and a respiration rate = 40rpm. Respondent noted a few tiny hairs in the dog's ears, but no wax or exudate. He stated in his narrative that he could not believe that those tiny hairs could contribute to the dog's discomfort thus recommended topical therapy for allergies. Complainant had otomax therefore Respondent recommended treating the dog's ears with otomax once a week.
7. Complainant was concerned that Respondent dismissed her concerns and the dog's previous

history. She did not want the dog to be anesthetized to have the hair in the ears removed as he had issues with recovery with the last surgical procedures. Complainant was asking Respondent for suggestions to help remove the ear hair without anesthesia. If in an emergency, the dog required surgery, Complainant asked that butorphanol not be used as the dog had a reaction to it in the past – they agreed that ketamine and midazolam would be used instead.

8. On December 2, 2019, the dog was presented to Respondent due to limping, having diarrhea and vomiting. Complainant also reported the dog had an elevated heart rate and labored breathing. Upon exam, the dog had a weight = 57 pounds, a temperature = 102.7 degrees, a heart rate = 160bpm and a respiration rate = 40rpm. Respondent noted that the dog's right hind leg was very swollen and painful thus radiographs were taken of the limb. There was no bony involvement, only soft tissue swelling, therefore Respondent performed a fine needle aspirate to confirm the swelling was due to a mast cell tumor. He and his associate confirmed mast cells were present. Respondent administered the dog 3mLs of cerenia and 6mLs of unasyn IV. Complainant declined submitted the slides for cytology and the dog was discharged with Clavamox, gabapentin and prednisone.

9. Complainant expressed concerns that Respondent aspirated the mass on the dog's leg and administered two medications without her consent and without providing her with an estimate of fees. Additionally, Respondent recommended referral to an oncologist and insisted Complainant give the dog prednisone. Complainant advised Respondent that she explored those options in the past and elected to not pursue due to the dog's age and quality of life issues. Complainant requested Rimadyl, instead of gabapentin as the dog tolerated Rimadyl well. Respondent refused as Rimadyl could not be given with prednisone. Complainant stated that Respondent did not show her the radiograph taken of the dog's leg.

10. That evening, Complainant gave the dog gabapentin. The dog was up all night, whining, restless, disoriented and unable to walk. Complainant expressed concerns that Respondent did not warn her of the potential side effects of gabapentin.

11. On December 3, 2020, Complainant called Respondent to report that the mass on the dog's leg was swelling to the size of a football and that he appeared to be having a negative reaction to the gabapentin. Respondent stated that injecting a mast cell tumor will cause swelling – Complainant was upset that Respondent did not warn her that could happen and aspirated the mass without her permission. Complainant requested Rimadyl; Respondent approved. Complainant picked up the Rimadyl later that day and requested a copy of the dog's medical records at that time, which were provided to her. Additionally, technical staff showed Complainant the dog's radiograph from the previous day per Complainant's request. Complainant questioned if it was a radiograph of the dog.

12. Later that day, the dog began to rapidly decline therefore Complainant called Respondent's premises to request an appointment to euthanize the dog. No appointments were available that day, the next day, or later in the week according to Complainant. Complainant took the dog Ina Road Animal Hospital that day for humane euthanasia.

COMMITTEE DISCUSSION:

The Committee discussed that Complainant's complaint was lengthy. They commented that it can be difficult to deal with a client that does not want to pursue any treatment recommendations. The Committee did not feel Respondent used foul language or was abusive in any way – there seemed to be some personality differences.

Respondent administered injections and performed an aspiration which the Committee did not feel were improper. With respect to the aspiration, Respondent was attempting to ensure the mass was not something else besides a Mast cell tumor – however, aspiration of a Mast cell can cause degranulation. A radiograph was taken and no fractures were present.

The dog did present on an emergency basis for vomiting and diarrhea. The injections that were administered would do more to help the dog than hurt it. The money was refunded for those services.

There was a lack of communication between Complainant and Respondent; there was a disconnect with respect to what care was best for the dog. Complainant returned to Respondent two more times after not having a positive experience the first visit. At the time the injections were given, Complainant did not voice disapproval; however, on previous occasions, Complainant was vocal about what Respondent could not do. Complaint had done a lot for the dog and he was very important to her thus she had strong opinions how she wanted the care for the dog to go.

Some Committee members felt Respondent used poor judgment as he knew Complainant was difficult. She asked him not to squeeze the mass, and then he aspirated the mass without authorization. The medications Respondent administered were not emergency drugs, the dog was not critical requiring life-saving medications. Respondent set himself up for a problem as he knew Complainant was very strict on how she approached the dog's care.

Complainant did not voice what she wanted, only what she did not want Respondent to do.

COMMITTEE'S PROPOSED CONCLUSIONS of LAW:

The Committee concluded that no violations of the Veterinary Practice Act occurred.

COMMITTEE'S RECOMMENDED DISPOSITION:

Motion: It was moved and seconded the Board:

Dismiss this issue with no violation.

Vote: The motion was approved with a vote of 4 to 0.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.